

May 2 2007

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

## IN THE SUPREME COURT OF THE STATE OF MONTANA

FILED

THE STATE OF MONTANA,

PR06-0120

MAY 02 2007

Plaintiff,

v.

TERRENCE RICHARDSON PASSMORE,

Defendant.

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA  
ORDER

On April 18, 2007, counsel for Terrence Richardson Passmore filed a motion to remove Honorable E. Wayne Phillips, District Judge, for cause pursuant to § 3-1-805, MCA, in Park County Cause No. DC-06-60.

Section 3-1-805(1)(b), MCA, provides that an affidavit of disqualification shall be accompanied by a certificate of counsel of record that the affidavit has been made in good faith. Such affidavit shall be deemed to not have been made in good faith if it is based solely on rulings in the case made by the challenged judge.

The affidavit in support filed by counsel for Passmore is based entirely upon rulings made in the case by the challenged judge and, therefore, is deemed not to have been made in good faith.

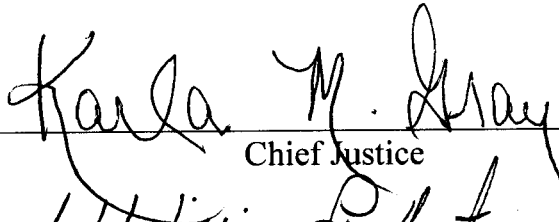
We determine that the motion does not establish personal bias.

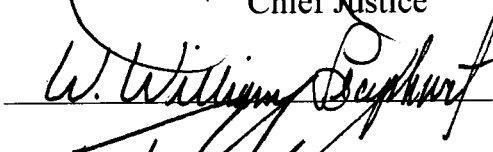
## IT IS THEREFORE ORDERED:

1. Pursuant to 3-1-805(1)(c), MCA, the affidavit of disqualification is set aside as void.
2. Counsel's motion to disqualify the district judge in Park County Cause No. DC-06-60 is denied.

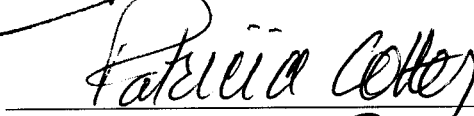
3. The Clerk is directed to mail a true copy hereof to the Clerk of the District Court of Park County, Montana, for notification to counsel of record in DC-06-60 and to the Honorable E. Wayne Phillips, District Judge.

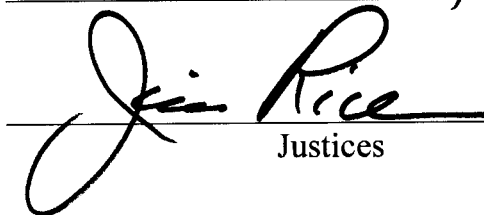
DATED this 2<sup>nd</sup> day of May, 2007.

  
Chief Justice







  
Justices